

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

BETH BERKELHAMMER, et al,

Plaintiffs,

v.

ADP TOTALSOURCE GROUP, INC., et
al.,

Defendants.

No. 2:20-CV-05696-ES-JRA

**ORDER GRANTING
PLAINTIFFS' MOTION
FOR ENTRY OF FINAL
JUDGMENT AS TO NFP
OR CERTIFICATION FOR
INTERLOCUTORY
APPEAL**

Before the Court is Plaintiffs' Motion for Plaintiffs' Motion For Entry of Final Judgment as to NFP or Certification For Interlocutory Appeal. Upon consideration of the motion, the Court hereby orders that the motion is **GRANTED in part** and **DENIED in part**.


The Court concludes that its Order granting the motion of Defendant NFP Retirement Inc. to Compel Mediation and Arbitration and dismissing Plaintiffs' claims asserted against NFP (D.E. No. 95) is a "final" decision as to NFP within the meaning of Federal Rule of Civil Procedure 54(b). The Court has also considered judicial administrative interests and the equities involved, and expressly finds that there is no just reason for delay in entering final judgment as to NFP. Because the arbitrability issue that Plaintiffs seek to appeal is separate from the merits of the remaining claims, there is no possibility that the Third Circuit would

have to consider the same issue a second time. Moreover, it is unlikely that further developments in this Court would moot the need for appellate review of the arbitrability issue. Finally, the Court concludes that both Plaintiffs and NFP will benefit from an immediate appeal of the arbitrability issue and that no party will be prejudiced.

~~The Court further concludes that its Order granting NFP's Motion to Compel Mediation and Arbitration involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation. See 28 U.S.C. §1292(b).~~

SO ORDERED.

Dated: This 31 day of March, 2022.



Honorable Esther Salas
United States District Judge